ORDINANCE NO. 2

SERIES 1967

AN ORDINANCE granting to the CALIFORNIA-PACIFIC UTILITIES COMPANY, a corporation, the right to place, erect and maintain poles, wires, and other appliances and conductors for the transmission and distribution of electricity in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the City of Elgin, Oregon, and to exercise the privilege of engaging in the general business of generating, transmitting and distributing electrical energy, for a term of ten (10) years.

THE CITY OF ELGIN ORDAINS AS FOLLOWS:

Section 1. The City of Elgin, hereinafter referred to as the City, hereby grants to the CALIFORNIA-PACIFIC UTILITIES COMPANY, a corporation, hereinafter referred to as the Grantee, the right and privilege to place, erect, lay, maintain, and operate in and over the streets, alleys, avenues, thoroughfares, and public highways within said city, poles, wires and other appliances and conductors for the generation, transmission and distribution of electricity for domestic and commercial use; such wires or conductors above referred to may be strung upon poles and other fixtures above ground, or may be laid underground in conduits or pipes or otherwise protected, and such other apparatus may be used as may be necessary or proper to operate and maintain the same.

Section 2. All construction of transmission and distribution lines, erection of poles, location and installation of guy wires, protection and installation of all wires with which the public may come in contact, and construction and maintenance of transmission and distribution lines, substations, transformers and equipment of every kind and description within the city limits of the said City of Elgin shall be done in accordance with the electrical code of the State of Oregon in effect at the time that such work is done and in accordance with the usual practice of light and power companies in the construction and maintenance of such type of property and such reasonable regulations as the City may adopt, and in full accord with such codes, rules and regulations as may from time to time be adopted by the electrical industry covering the manner of construction,

maintenance, installation and use of transmission and distribution lines and generating equipment in the sale and distribution of electrical energy.

Section 3. Subject to the use for which said poles are erected, the City shall have the right, without cost to it and subject to the rules and regulations of said Grantee, to attach to the top of any of the poles maintained by the grantee, City fire alarm and police wires.

Section 4. It shall be lawful for the said Grantee, after having received permission therefor from the Street Commissioner of the City of Elgin, and not otherwise, to make all needful excavations in any of said streets, alleys, avenues, thoroughfares, and public highways for any of the purposes aforesaid. Said work shall be done in compliance with the necessary rules, regulations, orders or ordinances which may during the continuation of this franchise be adopted from time to time by the Common Council of said City. Such plans and specifications as may be necessary for the performance of such work shall be furnished by the Grantee herein without expense to the said City. Whenever the said Grantee shall disturb any of the streets, alleys, avenues, thoroughfares or public highways for any of the purposes aforesaid, it shall restore the same in as good condition and order as they were theretofore as soon as practicable, and, failing to do so, the City of Elgin may fix a reasonable time within which restoration shall be completed, and upon failure to comply with such order of said City, may cause such restoration to be made at the expense of said Grantee.

Section 5. In the construction of any public improvement by or under the authority or direction of said City, said Grantee shall, without cost to said City, move any of its poles, wires, appliances, conductors or other apparatus and equipment upon demand of the Common Council of said City. The Grantee shall temporarily raise, lower or remove its facilities upon any street or alley within the City when necessary in order to permit any person authorized by the City to move

any building, machinery or other object across or along such street or alley. However, the cost to the Grantee of the temporary raising, lowering or removal, and of any interruption of the Grantee's service to its customers caused thereby, shall first be paid or reasonably secured to the Grantee by the owner or mover of the building, machinery or other object. The raising, lowering or removal shall be in accordance with all applicable ordinances and regulations of the City.

Section 6. It is hereby declared that the Common Council of the City of Elgin estimates that the fair compensation for this franchise is a sum equal to three (3) per centum of the gross earnings of the Grantee derived from the sale of electrical energy to its patrons now or hereafter located within the City of Elgin, and does specify that said sum shall be due quarterly on the 16th day of January, April, July and October of each year during the life of this franchise to the said City by said Grantee in part consideration therefor. The said Grantee shall maintain an office within the boundaries of Union County, Oregon, in which it shall have available at all times records showing the amount of its gross earnings within the City of Elgin. Said records shall at all reasonable times be subject to inspection and examination by any duly authorized agent or representative of the said City.

Section 7. Every charge, rate, fee or compensation made or demanded by the Grantee of this franchise for any service rendered or to be rendered within the City of Elgin shall be just, fair and reasonable.

Section 8. The right, privileges and franchises hereby granted to the said CALIFORNIA-PACIFIC UTILITIES COMPANY, a corporation, its successors and assigns, shall continue and be in full force and effect for the full period of ten (10) years from and after the taking effect of this ordinance, including the acceptance hereof, subject to the faithful performance of all terms, conditions and restrictions herein and of the Charter of the City of Elgin, Union County, Oregon, now in effect, except so far as such terms may

be modified or superseded by the Constitution or laws of the State of Oregon or of the United States.

Section 9. This privilege shall be binding upon and inure to the benefit of the successors, legal representatives and assigns of the Grantee, but this privilege and the rights granted under this ordinance either by sale, merger, consolidation, operation of law or otherwise cannot be assigned by the Grantee without first obtaining the consent of the City thereto in writing as expressed by an ordinance.

However, the Grantee, without securing approval of the City, may execute mortgages or trust indentures upon the properties of the Grantee if given to secure bonds or other bona fide indebtedness of the Grantee.

Section 10. The franchise hereby granted shall not be exclusive, and the City of Elgin expressly reserves the right to grant similar rights and privileges to others.

Section 11. The Grantee and its successors and assigns shall hold the City of Elgin harmless from all expense or liability arising from any negligent act or omission of the Grantee in the conduct of its operations hereunder.

Section 12. This ordinance shall be inoperative unless an acceptance in writing thereof shall be filed with the Recorder of the City of Elgin within forty(40) days after the passage of this Ordinance.

Section 13. The rights, privileges, terms and payments specified in this Ordinance shall commence and be in full force and effect from and after the 4th day of April, 1967 and continuing during the life of the franchise.

Signed by the Mayor this 14th day of February, 1967.

Robert K. Wiles
Mayor of the City of Elgin

Attest:

Ethel Blunt
Recorder, City of Elgin

ACCEPTANCE OF FRANCHISE

The undersigned, CALIFORNIA-PACIFIC UTILITIES COMPANY, a California corporation, does hereby accept the franchise granted to it by Ordinance No. 2 , Series 1967, of the City of Elgin, State of Oregon, adopted by the City Council, and approved by the Mayor of said City on February 14 , 1967, and does hereby accept the rights, privileges, and franchises granted thereby and does hereby agree to be bound by the terms and conditions thereof.

Dated: February 21, 1967

CALIFORNIA-PACIFIC UTILITIES COMPANY

By _____
Vice President

ATTEST:

_____
Secretary

Received for Recordation

February 21, 1967

_____, Recorder

Robert K. Wilis, Mayor

CITY OF ELGIN

CERTIFICATE

State of Oregon:
County of Union: ss
City of Elgin:

I, the undersigned, Esther Hunt hereby certify that I am the duly qualified appointed and acting City Recorder of the City of Elgin, Union County, Oregon; that I have compared the foregoing ORDINANCE # 2 , Series 1967 with the original thereof and that the same is a correct transcript therefrom and of the whole of such original.

Esther Hunt
Recorder, City of Elgin